



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

JOHN BEN SHEPPERD
ATTORNEY GENERAL

April 20, 1953

Hon. M. B. Morgan
Commissioner
Bureau of Labor Statistics
Austin, Texas

Opinion No. S-30.

Re: Authority of the Bureau of Labor Statistics to license a Grayson County resident to operate an employment agency in Jefferson County.

Dear Mr. Morgan:

You request the opinion of this office as to whether the Commissioner of the Bureau of Labor Statistics can approve an application of a Grayson County resident to operate an employment agency in Jefferson County. In other words, can an employment agent duly licensed to operate an employment agency in Grayson County procure another license to operate an employment agency under the same name in any other county of this State, to-wit, Jefferson.

You have advised that you are interested in an opinion concerning only the Private Employment Agency Law.

Section 3 of Article 5221a-6, V.C.S., reads in part as follows:

" . . . Where the application is made by a firm, partnership, or an association of persons, it must be verified by each person for whose benefit the application is made, and such application shall also be accompanied by affidavits of at least five (5) creditable citizens who have resided in the county in which such applicant desires to conduct the business of a Private Employment Agency, for at least three (3) years, to the effect that the applicant or applicants are residents of the county in which such person desires to become a Private Employment Agent, and that such person or persons are of good moral character. . . . There shall be only one type of license issued under the provisions of this Act, which license shall be designated as a Private Employment Agency license, which will permit the licensee to Act as a Private Employment Agent, maintaining only one office under said license. . . ."

The underscored portions of Section 3 of Article 5221a-6 clearly indicate that the Legislature intended for the Private Employment Agent to be a resident of the county in which he conducts the business of a Private Employment Agency. The Legislature by this Section requires that five creditable citizens of the county where the agency is to be located make affidavits that the applicant for a license to engage in the business of a private employment agency (1) be a resident of the county where he intends to transact said business, and (2) be of good moral character. If the Legislature had not intended that the applicant be a resident of the county where he intended to do business as a private employment agent, it certainly would not have included in the statute the specific requirement that the applicant submit with his application affidavits from reputable citizens stating that he was a resident of the county where he intended to do business. Under this statute the Bureau of Labor Statistics can approve an application for an applicant to do business as a private employment agent if the applicant meets the requirements set out in the statute. If the applicant does not meet the requirements so set out the Bureau of Labor Statistics does not have the power to approve such an application. For the Bureau to do so would be an assumption of authority prohibited by the Legislature.

The intent of the Legislature is made even clearer by Section 3, Article 5221a-5, the Labor Agency Law, which stipulates that the affidavits of the five creditable citizens are only to the effect that the applicant or applicants are persons of good moral character. In this Section they have left out the residence requirement altogether. If such had been the intent of the Legislature in the Private Employment Agency Law it must be assumed that they would have also excluded the residence requirement from that law.

Thus the Bureau of Labor Statistics does not have the power or authority to approve an application by a Grayson County resident to operate an employment agency in Jefferson County.

Hon. M. B. Morgan, page 3, (Op. No. S-30).

SUMMARY

The Bureau of Labor Statistics cannot approve an application of a Grayson County resident to operate a private employment agency in Jefferson County.

Yours very truly,

APPROVED:

JOHN BEN SHEPPERD
Attorney General

Rudy G. Rice
State Affairs Division

C. K. Richards
Reviewing Assistant

By 
Bradley Bourland
Assistant

Willis Gresham
Reviewing Assistant

Robert S. Trotti
First Assistant